

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX

LPP MORTGAGE, LTD.,

Plaintiff,

v.

Civil No. 2003-100

BRAMMER CHASEN & O'CONNELL, AVA-  
GAIL JAGROOP-BOURDON as Personal  
Representative of the Estate of  
LEONARD CHASEN, PABLO O'NEILL, JOHN  
J. DELUCA, MICHAEL NEELY, WALTER G.  
BRUNNER, and KAREN CHASEN in her  
capacity as Trustee of the LEONARD  
CHASEN FAMILY TRUST,

Defendants.

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WALTER G. BRUNNER,

Defendant and  
Cross-Claimant,

v.

BRAMMER CHASEN & O'CONNELL, AVA-  
GAIL JAGROOP-BOURDON as Personal  
Representative of the Estate of  
LEONARD CHASEN, PABLO O'NEILL, JOHN  
J. DELUCA, MICHAEL NEELY, and KAREN  
CHASEN in her capacity as Trustee  
of the LEONARD CHASEN FAMILY TRUST,

Cross-Defendants.

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WALTER G. BRUNNER,

Defendant and Third-  
Party Plaintiff,

v.

KAREN CHASEN, CATHY DELUCA, NIEVES )  
O'NEILL and JENEANE NEELY, )  
 )  
Third-Party- )  
Defendants. )  
\_\_\_\_\_ )

**ATTORNEYS:**

**Warren B. Cole, Esq.**  
St. Thomas, U.S.V.I.  
*For the plaintiff.*

**Lee J. Rohn, Esq.**  
St. Croix, U.S.V.I.  
*For defendant and cross-defendant Pablo O'Neill.*

**Douglas A. Brady, Esq.**  
St. Croix, U.S.V.I.  
*For defendant and cross-defendant John J. Deluca  
and third-party defendant Cathy Deluca.*

**Edward L. Barry, Esq.**  
St. Croix, U.S.V.I.  
*For defendant, cross-defendant and third-party  
defendant Karen Chasen in her capacity as Trustee  
of the Leonard Chasen Family Trust,*

**H.A. Curt Otto, Esq.**  
St. Croix, U.S.V.I.  
*For defendant, cross-claimant and third-party  
plaintiff Walter G. Brunner.*

**Yvette D. Ross-Edwards, Esq.**  
St. Croix, U.S.V.I.  
*For third-party defendant Nieves O'Neill.*

**ORDER**

**GÓMEZ, C.J.**

LPP Mortgage, Ltd. ("LPP") initiated the above-captioned action for debt and foreclosure against defendants Brammer, Chasen & O'Connell (the "Partnership"), Ava-Gail Jagroop-Bourdon as the Personal Representative of the Estate of Leonard Chasen (the "Chasen Estate"),<sup>1</sup> Pablo O'Neill, John J. Deluca, Michael Neely ("Neely"), Walter J. Brunner, and Karen Chasen in her capacity as trustee of the Leonard Chasen Family Trust (the "Chasen Trust").

On May 4, 2004, this Court entered defaults against Neely, the Chasen Estate and the Chasen Trust. On June 18, 2004, the Court entered a default against the Partnership. The Court set aside the entry of default against the Chasen Estate and the Chasen Trust on August 16, 2004. The Court reentered a default against the Chasen Estate on July 18, 2005. The Court set aside the entry of default against Neely on November 8, 2005.

On September 16, 2005, LPP filed this motion for default judgments against Neely and the Chasen Trust.<sup>2</sup>

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<sup>1</sup> The Complaint named Karen Chasen as the personal representative of the Estate of Leonard Chasen. Ava-Gail Jagroop-Bourdon was later substituted for Karen Chasen.

<sup>2</sup> LPP also moved for a default judgment against the Partnership and the Chasen Estate. The motion as to those

Rule 55 of the Federal Rules of Civil Procedure sets forth a two-step process for a party seeking default judgment. A plaintiff must first obtain an entry of default from the clerk of the court, and then he may seek an entry of default judgment. Fed. R. Civ. P. 55; *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986); *Meehan v. Snow*, 652 F.2d 274, 276 (2d Cir. 1981); see also 10A FED. PRAC. & PROC. CIV. 3d § 2682 ("Prior to obtaining a default judgment under either Rule 55(b)(1) or Rule 55(b)(2), there must be an entry of default as provided by Rule 55(a)").

Here, LPP seeks default judgments against parties without having obtained entries of default. While defaults were entered against those parties at an earlier stage of this litigation, those defaults have been set aside. Thus, LPP has not yet completed the first step of seeking an entry of default. This step is the necessary predicate to a grant of default judgment against any defendant. Accordingly, LPP's motion for default judgments against Neely and the Chasen Trust must be denied. See, e.g., *Hagen v. Sisseton-Wahpeton Cmty. Coll.*, 205 F.3d 1040, 1042 (8th Cir. 2000); *Peak v. District of Columbia*, 236 F.R.D. 13, 15 (D.D.C. 2006) (denying a motion for a default judgment where the plaintiff had not first sought an entry of default).

For the reasons stated above, it is hereby

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parties is not addressed in this Order.

**ORDERED** that the motion for default judgments against Neely and the Chasen Trust is **DENIED**.

**Dated: November 5, 2007**

S\\_\_\_\_\_  
**CURTIS V. GÓMEZ**  
**Chief Judge**

**Copies to:** Hon. Geoffrey W. Barnard  
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